

Pat. # 7,717,582

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8  
9 UNITED STATES DISTRICT COURT FOR THE  
10 DISTRICT OF ARIZONA

11 Great American Duck Races, Inc., an  
12 Arizona corporation,

13 Plaintiff,

14 vs.

15 SwimWays Corporation, a Virginia  
16 corporation,

17 Defendant.

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

(Jury Trial Demanded)

18  
19 Plaintiff Great American Duck Races, Inc., which does business as Great American  
20 Merchandise & Events ("GAME"), alleges the following for its complaint against  
21 defendant SwimWays Corporation ("SwimWays"):

22 **PARTIES**

23 1. GAME is an Arizona corporation with its principal place of business located  
24 in Scottsdale, Arizona.

25 2. SwimWays is a Virginia corporation with its principal place of business  
26 located in Virginia Beach, Virginia.

27 **JURISDICTION AND VENUE**

28 3. This civil action includes claims for patent infringement arising under the

1 patent laws of the United States, 35 U.S.C. §§ 1-376.

2 4. This court has subject matter jurisdiction over this action under 28 U.S.C.  
3 §§ 1331 and 1338(a).

4 5. This Court has personal jurisdiction over SwimWays because SwimWays  
5 has committed acts of patent infringement and/or contributed to or induced acts of  
6 patent infringement by others in the District of Arizona and elsewhere in the United  
7 States. SwimWays has substantial and continuous contacts with the State of Arizona,  
8 has purposefully availed itself of the privilege of doing business in Arizona, and has  
9 purposefully directed its infringing activities at Arizona, knowing GAME would be  
10 harmed by the infringement in Arizona. Further, SwimWays has purposefully injected  
11 its infringing products into the stream of commerce, knowing that the infringing  
12 products would be sold in Arizona, and SwimWays' products have in fact been sold in  
13 Arizona. The exercise of jurisdiction over SwimWays is reasonable.

14 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c)  
15 and 1400(b) because SwimWays is subject to personal jurisdiction here and has  
16 committed acts of infringement here, and because a substantial part of the events giving  
17 rise to GAME's claims occurred here.

#### 18 **BACKGROUND**

19 7. GAME is a marketing and merchandise company that is recognized  
20 worldwide for its extensive lines of pool and spa products and accessories. GAME's  
21 products are sold in a variety of well-known retail outlets, such as Target, Wal-Mart,  
22 Leslie's, and Paddock Pools. GAME also provides services to diverse non-profit  
23 organizations that raise millions of dollars for charities across the globe with GAME's  
24 well-known "Derby Duck Races."

25 8. GAME is the exclusive licensee of rights to a unique product called the  
26 Underwater Light Show ("ULS"), including the right to manufacture, advertise,  
27 promote, offer for sale, sell, and distribute the ULS in the United States. The ULS  
28 provides a novel and entertaining, bright and colorful light display on the bottom and

1 sides of a swimming pool. The ULS creates light shows by, for example, causing LEDs  
2 to flash randomly, stay on continuously, fade from one color to the next, flash multiple  
3 colors together, or to randomly cycle through various shows. The result is an attractive  
4 light display that enhances the environment in and around a swimming pool.

5 9. On May 18, 2010, the United States Patent and Trademark Office issued  
6 United States Patent Number 7,717,582 (“the ‘582 Patent”), entitled “METHOD AND  
7 SYSTEM FOR UNDERWATER LIGHT DISPLAY” to Jose Longoria, Loren T.  
8 Taylor, and Traci Heather Feldman. Taylored Concepts, LLC, a New Jersey  
9 corporation having its principal place of business located in Chatham, New Jersey, and  
10 Longoria Design, LLC, a Florida company having its place of business located in  
11 Miami, Florida, are the assignees of all right, title, and interest in and to the ‘582 Patent.  
12 The ‘582 Patent includes disclosure relating to the ULS. A true and correct copy of the  
13 ‘582 Patent is attached to this Complaint as Exhibit A.

14 10. GAME is the exclusive licensee of the ‘582 Patent from Taylored  
15 Concepts, LLC and Longoria Design, LLC, with the exclusive right to manufacture,  
16 advertise, promote, offer for sale, sell, and distribute products associated with the ‘582  
17 Patent in the United States, and with the right to bring suit to enforce the ‘582 Patent,  
18 including the right to recover damages for past infringement.

19 11. SwimWays has offered for sale and sold a floatable product referred to by  
20 SwimWays as the Crystal Catch™ Fish (the “SwimWays Product”), which infringes one  
21 or more claims of the ‘582 Patent.

22 12. SwimWays maintains a broad distributor network in the United States,  
23 including with nationwide distributors who sell the SwimWays Product in Arizona.  
24 SwimWays’ website available at [www.swimways.com](http://www.swimways.com), through the “Where to Buy”  
25 link, lists approximately 85 different locations in Arizona where SwimWays’ products  
26 are available within a 20 mile radius of zip code 85004. Exhibit B includes a listing of  
27 these locations. These locations in Arizona include national retailers such as Costco,  
28 Bed Bath and Beyond, Big 5, The Sports Authority, and Kmart.



**PRAYER FOR RELIEF**

WHEREFORE, GAME prays for judgment against SwimWays as follows:

1. For judgment in favor of GAME and against SwimWays on the claims set forth above.
2. For judgment that the '582 Patent is valid, enforceable and infringed by SwimWays;
3. For judgment that SwimWays has willfully infringed the '582 Patent;
4. For damages resulting from SwimWays' past and present infringement of the '582 Patent;
5. For treble damages resulting from SwimWays' willful infringement of the '582 Patent under 35 U.S.C. § 284;
6. For reasonable attorneys fees under 35 U.S.C. § 285, as determined by the Court;
7. For injunctive relief preliminarily and permanently enjoining against further infringement of the '582 Patent by SwimWays, its officers, agents, servants, employees, and those persons acting in active concert or in participation with them, under 35 U.S.C. § 283;
8. For an order that all of SwimWays' existing inventory of the SwimWays Product be impounded and destroyed, or otherwise reasonably disposed of;
9. For costs and disbursements incurred by GAME;
10. For an assessment of prejudgment interest; and
11. For any other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

GAME hereby demands a jury trial under Rule 38 of the Federal Rules of Civil Procedure as to all issues in this lawsuit of which trial by jury is permitted.

1 Dated this 6<sup>th</sup> day of April, 2011.

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